



**REQUEST FOR PROPOSAL (RFP) TO DEVELOP TRANSPORT BILL FOR WAJIR
COUNTY**

TENDER REFERENCE NUMBER:

TENDER NO: WCG/T/RT/60/2018-2019

**THE COUNTY SECRETARY,
COUNTY GOVERNMENT OF WAJIR,
P.O BOX 9-70200
WAJIR.**

CLOSING DATE: 19TH FEBRUARY, 2019

AT 10.00 A.M. EAST AFRICAN TIME

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TENDER NOTICE

The County Government of Wajir (CGW) hereby invites tenders from interested bidders for the provision of the consultancy service below:

TENDER NO.	TENDER DESCRIPTION	CLOSING/SUBMISSION DEADLINE	Tender Security.
TENDER NO - WCG/T/RT/60/2018-2019	REQUEST FOR PROPOSAL (RFP) TO DEVELOP TRANSPORT BILL FOR WAJIR COUNTY.	19 th FEBRUARY, 2019	2% of Tender Sum

Eligible and pre-qualified Tenderers may obtain further information and download the complete set of tender documents free of charge on the County website.

Completed tender documents are to be enclosed in plain sealed envelopes marked with tender reference number and be deposited in the Tender Box or be addressed to:

**THE COUNTY SECRETARY,
COUNTY GOVERNMENT OF WAJIR,
P.O BOX 9-70200,
WAJIR.**

So as to be received on or before 19th February, 2018 at 10:00am

Tender will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at County Government headquarters (next to Water department) in Wajir.

Note: **“Canvassing will lead to automatic disqualification”**. Late tenders will not be accepted.

SECTION 1- LETTER OF INVITATION

TO: ELIGIBLE AND INTERESTED BIDDERS

Date: **4TH FEBRUARY, 2019**

Dear Sir/Madam,

RE: REQUEST FOR PROPOSAL (RFP) TO DEVELOP TRANSPORT BILL FOR WAJIR COUNTY.

- 1.1 The County Government of Wajir will select a candidate among those invited to submit in accordance with the method of selection detailed under this section and consistent with the regulations. The exercise is expected to be completed within 30 days from the effective date agreed upon after award of contract.
- 1.2 The request for proposal (RFP) includes the following documents;
 - ✓ Section 1 – Letter of Invitation
 - ✓ Section II – Information to Consultants including terms of reference for the assignment
 - ✓ Section III – Technical Proposal Forms
 - ✓ Section IV – Financial Proposal Forms
 - ✓ Section V – Standard Contract Form (where applicable)
- 1.3 Upon receipt, please inform us
 - (a) That you have received the letter of invitation
 - (b) Whether or not you will submit a proposal for the assignment

Yours sincerely,

**THE COUNTY SECRETARY,
COUNTY GOVERNMENT OF WAJIR.**

SECTION II: - INFORMATION TO CONSULTANTS (ITC)

2.1 INTRODUCTION

Wajir County is one of the 47 counties created under the Kenya Constitution 2010. The county is located in the North Eastern region of Kenya and it borders Somalia to the East, Ethiopia to the North, Mandera County to the Northeast, Isiolo County to the South West, Marsabit County to the West and Garissa County to the South. The county comprises of eight sub-counties namely Wajir East, Tarbaj, Wajir West, Eldas, Wajir North, Buna, Habaswein and Wajir South. The county has 6 constituencies namely Wajir East, Tarbaj, Wajir west, Eldas, Wajir South and Wajir North and has 30 electoral wards. Wajir North and Wajir South constituencies have the largest number of wards at 7, and the rest have 4 each.

The County Government has approximately 5,280km of road network with only less than 10% of the road network being paved or gravelled. Most of the paved and gravelled road network provides connectivity and access within the main urban centres in the County. In addition, the County has no rail network. On the contrary, the county has an international airport in Wajir and 7 airstrips (Habaswein, Khorof Harar, Wagalla, Buna, Bute, Tarbaj, and Diff). Roads are the most common mode of transport in the county despite their poor state. Most of the feeder road network is in bad condition. Most of the roads are rendered impassable during rainy season thus limiting movements by road within the county. The county lacks proper bridges hence drifts are commonly used and they are more often than not rendered impassable.

In light of the above background, the County Government would now like to formulate a county transport bill that will seek to improve the county infrastructure. The county wishes like to engage the services of a qualified Consultancy firm to guide the county government in formulation of the transport bill through a participatory process.

2.1.1 The County Government of Wajir will select a candidate among those invited to submit in accordance with the method of selection – Quality and Cost Based Selection (QCBS) detailed under this section and consistent with the regulations.

2.1.2 The candidates are invited to submit a **technical proposal** and a **financial proposal** for consulting services required for the assignment stated in the letter of invitation (Section D)

2.1.3 In the assignment where the procuring entity intends to apply standard conditions of engagement and scales of fees will have been approved by the relevant authority, a technical proposal only may be invited and submitted by the candidate. In such a case the highest ranked candidate in the technical proposal shall be invited to negotiate a contract on the basis of the set scale of fees. The technical proposal will be the basis for the contract negotiations

If necessary and ultimately for a signed contract with the selected candidate.

2.1.4 The consultants must familiarize themselves with local conditions and take them into account in preparing their proposals. To obtain first-hand information on the assignment and on the local conditions, consultants are encouraged to liase with the Client regarding any information that they may require before submitting a proposal and to attend a pre-proposal conference where applicable.

- 2.1.5 The client will provide the inputs and services specified in the special conditions of contract needed to assist the candidate to carry out the assignment.
- 2.1.6 Please note that (i) the costs of preparing the proposal and of negotiating the Contract, including any visit to the Client are not reimbursable as a direct cost of the assignment; and (ii) the Client is not bound to accept any of the proposals submitted.
- 2.1.7 The procuring entity's employees, committee members, board members and their relatives (spouse and children) are not eligible to participate in the tender.

2.2. CLARIFICATION AND AMENDMENT OF RFP DOCUMENTS

- 2.2.1 Candidates may request clarification of any of the RFP documents not later than 7 days before the deadline for the submission of the proposals. Any request for the clarification must be sent in writing by post, fax or email to the procuring entity's address indicated in the special conditions of contract. The procuring entity will respond by post, fax or email to such requests and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all candidates invited to submit proposals.
- 2.2.2 At any time before the deadline for the submission of the proposals, the procuring entity may for any reason; either at its own initiative or in response to a clarification requested by any candidate amends the RFP. Any amendment shall be issued in writing, fax or email to all invited candidates and will be binding on them. The procuring entity may at its discretion extend the deadline for the submission of the quotations.

2.3 PREPARATION OF TECHNICAL PROPOSAL

- 2.3.1 The Consultants proposal shall be written in English language
- 2.3.2 In preparing the Technical proposal, the candidates are expected to examine the documents consisting the RFP in detail. Material deficiencies in providing the information requested may result in rejection of a Quotation.
- 2.3.3 While preparing the Technical Proposal, consultants must give particular attention to the following:
 - ✓ If the candidate considers that it does not have all the expertise required for the assignment it may suggest in the proposals other person(s) who will assist in the assignment but they will not be party to the contract for the purpose of the performance of the assignment. A candidate will not propose other candidates invited to submit quotations for the assignment. Any candidate in contravention of this requirement shall automatically be disqualified.
 - ✓ For all the staffs who will be involved in the assignment a candidate must indicate their responsibility in the assignment and also the staff time as necessary.
 - ✓ It is desirable that the majority of the key professional staff proposed be permanent employees of the firm or have an extended and stable working relationship with it.

- ✓ Proposed professional staff must as a minimum, have the experience indicated in Appendix, preferably working under conditions similar to those prevailing in Kenya.
- ✓ The Curriculum Vitae (CV) of the staff proposed must be submitted with the quotation.

2.3.4 The Technical Proposal shall provide the following;

- (i) A brief description of the firm's organization and an outline of recent experience on assignments of a similar nature. For each assignment the outline should indicate *inter alia*, the profiles of the staff proposed, duration of the assignment, contract amount and firm's involvement.
- (ii) Any comment or suggestion on the Terms of Reference and a list of service and facilities requested to be provided by the procuring entity.
- (iii) A description of the methodology and work plan for performing the assignment.
- (iv) The list of the proposed staff team by speciality, the task that will be assigned to each staff team member and their timing.
- (v) CVs recently signed by the proposed professional staff and the authorized representative submitting the proposal. Key information should include number of years working for the firm/entity and degree of responsibility held in various assignments during the last (5) years.
- (vi) Any information requested in the special conditions of contract.

2.3.5 The Technical Proposal shall not include any financial information.

2.4 PREPARATION OF FINANCIAL PROPOSAL

2.4.1 In preparing the Financial Proposal, consultants are expected to take into account the requirements and conditions outlined in the RFP documents. The Financial Proposal should follow Standard Forms (Section IV). It lists all costs associated with the assignment including; (a) remuneration for staff (in the field and at headquarters), and; (b) reimbursable expenses such as subsistence (per diem, housing), transportation (international and local, for mobilization and demobilization), services and equipment (vehicles, office equipment, furniture, and supplies), office rent, insurance, printing of documents, surveys, and training, if it is a major component of the assignment. If appropriate these costs should be broken down by activity.

2.4.2 The Financial Proposal should clearly identify as a separate amount, the local taxes, duties, fees, levies and other charges imposed under the law on the consultants, the sub-consultants and their personnel

2.4.3 Consultants shall express the price of their services in Kenya Shillings.

2.4.4 Commissions and gratuities, if any, paid or to be paid by consultants and related to the assignment will be listed in the Financial Proposal Submission Form.

2.4.5 The financial quotation must remain valid for 120 days after the submission date. During this period the candidate is expected to keep available at his own cost any staff proposed for the assignment. The procuring entity will make best efforts to complete negotiations within this period. If the procuring entity wishes to extend the validity period of the quotation, the candidate who do not agree, have the right not to extend the validity of their quotations.

2.4.6 The financial quotation must comply with the law governing the profession of the candidate.

2.5 SUBMISSION, RECEIPT, AND OPENING OF PROPOSALS

2.5.1 The technical proposal and the financial quotation (if required) shall be prepared in indelible ink. It shall contain no interlineations or overwriting, except as necessary to correct errors made by the candidates. Any such corrections must be initiated by the candidate.

2.5.2 For each quotation the candidate shall prepare the quotation in the number of copies indicated in the special conditions of the contract. Each Technical proposal and financial quotation shall be marked "**ORIGINAL**" OR "**COPY**" as appropriate. If there are any discrepancies between the original and copies of the quotation, the original shall govern.

2.5.3 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked "**TECHNICAL PROPOSAL**," and the original and all copies of the Financial Proposal in a sealed envelope clearly marked "**FINANCIAL PROPOSAL**" and warning: "**DO NOT OPEN WITH THE TECHNICAL PROPOSAL**". Both envelopes shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address and other information indicated in the Appendix and be clearly marked, "**DO NOT OPEN, EXCEPT IN PRESENCE OF THE OPENING COMMITTEE.**"

2.5.4 The completed Technical proposal and financial quotations must be delivered at the submission address on or before the time and date of the submission of the quotation indicated in the appendix to the instruction to the candidates. Any quotations received later than the closing date for the submission of quotations shall be rejected and returned to the candidates unopened. For this purpose, the inner envelope containing the technical and financial quotations will bear the address of the candidate submitting the quotations.

2.5.5 After the deadline for submission of quotations the outer envelope and the technical quotations shall be opened immediately by the opening committee. The financial quotations shall be marked with the candidates' number allocated at the time of opening the outer envelope and the technical proposals but shall remain sealed and in custody of the responsible officer of the procuring entity up to the time set for opening it.

2.6 PROPOSAL EVALUATION GENERAL

2.6.1 From the time the quotations are opened to the time of the contract award, if any candidate wishes to contact the procuring entity on any matter relating to the quotation should do so in writing at the address indicated at the appendix to the instructions to candidates. Any effort by the candidate to influence the procuring entity's staff in the evaluation of quotation companion proposals or award of contract may result in the rejection of the candidate quotation.

- 2.7.1 Any quotation which will be examined and found not comply with all the requirements for submission of the quotations will be declared non-responsive. All the quotations found complied with all the requirements for submission of quotation shall be declared responsive by for evaluation committee.
- 2.7.2 Each responsive quotation will be given a Technical Score (TS). Any technical proposal which fails to achieve the total minimum score indicated in the appendix to the information to tenderers shall be rejected at this stage and will not proceed to the next stage of evaluation. The respective financial quotation will be returned to the individual consultant unopened.
- 2.7.3 The technical evaluation may be simplified where the assignment is not complex in which case merit points will not be used.

2.8 PUBLIC OPENING AND EVALUATION OF FINANCIAL PROPOSAL

- 2.8.1 After completion of the evaluation of Technical proposals the procuring entity shall notify the candidate whose proposal did not meet the minimum technical score or where declared non-responsive to the RFP and terms of reference. The notification will indicate that their financial quotation shall not be opened and will be returned to them unopened after the completion of the selection process and contract award. At the same time, the procuring entity shall simultaneously notify the candidates who have secured the minimum technical score that they have passed the technical qualifications and inform them the date and time set by the procuring entity for opening their financial quotations. They will also be invited to attend the opening ceremony if they wish to do so.
- 2.8.2 The Financial Proposals shall be opened publicly in the presence of the consultants' representatives who choose to attend. The name of the consultant, the technical. Scores and the proposed prices shall be read aloud and recorded when the Financial Proposals are opened. The Client shall prepare minutes of the public opening.
- 2.8.3 The evaluation committee will determine whether the financial proposals are complete (i.e. whether the consultant has costed all the items of the corresponding Technical Proposal and correct any computational errors. The cost of any unpriced items shall be assumed to be included in other costs in the proposal. In all cases, the total price of the Financial Proposal as submitted shall prevail.
- 2.8.4 While comparing proposal prices between local and foreign firms participating in a selection process in financial evaluation of Proposals, firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 10% preferential bias in proposal prices. However, there shall be no such preference in the technical evaluation of the tenders. Proof of local incorporation and citizenship shall be required before the provisions of this sub-clause are applied. Details of such proof shall be attached by the Consultant in the financial proposal.
- 2.8.5 The formulae for determining the Financial Score (Sf) shall, unless an alternative formula is indicated in the Appendix "ITC", be as follows: -

$Sf = 100 \times \frac{Fm}{F}$ where **Sf** is the financial score; **Fm** is the lowest priced financial proposal and F is the price of the proposal under consideration. Proposals will be ranked according to their combined technical (*St*) and financial (*Sf*) scores using the weights (*T*=the weight given to the Technical Proposal; *P* = the weight given to the Financial Proposal; $T + P = 1$) indicated in the Appendix. The combined technical and financial score, *S*, is calculated as follows: - $S = St \times T \% + Sf \times P \%$. The firm achieving the highest combined technical and financial score will be invited for negotiations.

- 2.8.6 The tender evaluation committee shall evaluate the tender within a maximum 30 days of from the date of opening the tender.
- 2.8.7 Contract price variations shall not be allowed for contracts not exceeding one year (12 months).
- 2.8.8 Where contract price variation is allowed, the variation shall not exceed 15% of the original contract price
- 2.8.9 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

2.9 NEGOTIATIONS

- 2.9.1 Negotiations will be held at the same address indicated in the appendix to the information to the candidates. The purpose of the negotiations is for the procuring entity and the candidate to reach agreements on all points regarding the assignment and sign a contract.
- 2.9.2 The negotiations will include a discussion on the technical proposals, the proposed methodology and work plan, staff and any suggestions made by the candidate to improve the Terms of reference. The agreed work plan and Terms of reference will be incorporated in the description of the service or assignment and form part of the contract.
- 2.9.3 Having selected the firm on the basis of, among other things, an evaluation of proposed key professional staff, the Client expects to negotiate a contract on the basis of the experts named in the proposal. Before contract negotiations, the Client will require assurances that the experts will be actually available. The Client will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the proposal without confirming their availability, the firm may be disqualified.
- 2.9.4 The negotiations will conclude with a review of the draft form of the Contract. To complete negotiations the Client and the selected firm will initial the agreed Contract. If negotiations fail, the Client will invite the firm whose proposal received the second highest score to negotiate a contract.
- 2.9.5 The procuring entity shall appoint a team for the purpose of the negotiations.

2.10 AWARD OF CONTRACT

2.10.1 The Contract will be awarded following negotiations. After negotiations are completed, the Client will promptly notify other consultants on the shortlist that they were unsuccessful and return the Financial Proposals of those consultants who did not pass the technical evaluation.

2.10.2 The selected candidate is expected to commence the assignment on the date indicated in the appendix to the instructions to tenderers or any other date agreed with the procuring entity at the time of the contract award. Both parties will sign the contract.

2.10.3 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

2.10.4 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

2.10.5 The procuring entity shall give prompt notice of the termination to the tenderers giving reasons for termination within 14 days of receiving the request from any tenderer.

2.10.6 To qualify for contract awards, the tenderer shall have the following:

- ✓ Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.
- ✓ Legal capacity to enter into a contract for procurement
- ✓ Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.
- ✓ Shall not be debarred from participating in public procurement.

2.11 CONFIDENTIALITY

2.11.1 The information collected and the resulting findings shall be the property of Wajir County and shall not be divulged to any third party without express permission from the county government.

2.12 CORRUPT OR FRAUDULENT PRACTICES

2.12.1 The procuring entity requires that the consultants observe the highest standards of ethics during the selection and award of the consultancy contract and also during the performance of the assignment. **THE TENDERER SHALL SIGN A DECLARATION THAT HE HAS NOT AND WILL NOT BE INVOLVED IN CORRUPT OR FRAUDULENT PRACTICES.**

2.12.2 The procuring entity will reject a proposal for award if it determines that the consultant recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

2.12.3 Further a consultant who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

APPENDIX TO INFORMATION TO CONSULTANTS AND TERMS OF REFERENCE

The following information for procurement of consultancy services and selection of consultants shall complement or amend the provisions of the information to consultants, wherever there is a conflict between the provisions of the information and to consultants and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the information to consultants.

3.0. CLAUSE REFERENCE

The name of the Client is:

**COUNTY GOVERNMENT OF WAJIR.
P.O. BOX 9-70200,
WAJIR.**

3.1. *The method of selection* is: **COMPETITIVE BIDDING BASED ON QUALIFICATIONS AND COST (QCBS FOR CONSULTANCIES).**

3.2. *Technical and Financial Proposals* are requested: Yes No

3.3. *The name, objectives, and description of the assignment* are

REQUEST FOR PROPOSAL (RFP) TO DEVELOP TRANSPORT BILL FOR WAJIR COUNTY.

3.4 TERMS OF REFERENCE

3.4.1. OBJECTIVE OF THE ASSIGNMENT

The overall objective of the assignment is to formulate a transport bill for Wajir County.

3.4.2. SCOPE OF WORK

In order to achieve the study objective, the following tasks will be undertaken:

1. Undertaking project initiation activities including project kick-off, stakeholder identification and general consensus building.
2. Reviewing existing policies, reports and legal framework relating to transport and infrastructure in the county
3. Establishing the perceptions and expectations of the county residents and other stakeholders on the current state, challenges and opportunities for interventions by the county government on transport and infrastructure affairs through holding stakeholder consultative forums.
4. Conducting a desk study on at least 2 other counties in Kenya as well as 2 other local authorities/counties from developed countries on their transport and infrastructure practices.
5. Preparing a draft technical paper for the transport bill and the draft transport bill.

6. Holding a stakeholder validation workshop with select stakeholders on the draft technical paper and the draft transport bill
7. Preparation of the final technical paper and the draft transport bill incorporating the comments from the county government and the stakeholders

In undertaking the above activities, the following will be considered:

1. The consultant must consider the provisions of county model law on transport.
2. The stakeholders to be consulted include the following:
 - i. Various county executive officials including the CECM roads, the CO roads, the County Chief Engineer, Other Transport department staff, etc.
 - ii. Members of Wajir County Assembly Transport Committee
 - iii. The County Attorney
 - iv. Tuk tuk operators
 - v. Public service motorbikes /bodaboda operators
 - vi. Other public service operators such as matutu, taxis, etc.
 - vii. Women representatives
 - viii. Youth representatives
 - ix. Local elders
 - x. Non-Governmental Organisation operating in Wajir County
 - xi. Law enforcement authorities based in Wajir County such as the National Police Service, Kenya Airports Authority, NTSA etc.
 - xii. County residents living outside the county and in the country using online platforms
3. In consultation with the County Government, the Consultant will identify two other counties in Kenya one of which should be from an ASAL region and two other local authorities/counties from developed countries one of which should be from Asia, Africa or South America and undertake a desk study on their transport and infrastructure practices and legal framework with a view to borrowing the positive practices identified.

3.4.4 EVALUATION CRITERIA

E. SUMMARY EVALUATION CRITERIA

This Request for Proposal is open to firms with the requisite capability. Interested firms may form consortium or joint ventures to enable them to meet the RFP requirements.

This RFP does not constitute solicitation. Wajir County Government reserves the right to change or cancel the requirements at any time during the RFP solicitation process

E.I Mandatory Requirements

The Firm must provide the following mandatory requirements provided in section 3.5 of this tender document

Bidders MUST comply with all mandatory requirements to be considered for the next evaluation stage (Technical Evaluation).

E.2 Technical Evaluation

The bidding firm must provide a technical proposal that shall comprise the following:

1. A cover letter/statement of interest indicating the firm's interest in the project and highlighting its qualifications to perform this project
2. Statement of qualifications, including related experience with similar types of projects and specific qualifications or resumes of key team members
3. Scope of Work and Project Proposal, including a proposed schedule with key milestones and deliverable dates, and cost estimates.
4. A minimum of two (2) references relating to completed projects for the services being requested with full name, title, address, phone and email address.

The Technical Evaluation will have several aspects as outlined in the table below:

Criteria	Score
<p>Firm Experience</p> <p>The consulting firm must have experience in strategy and policy formulation or other relevant experience in the public sector. (5 marks for each experience indicated in the proposal)</p>	10 Marks
<p>Understanding of the assignment, approach, methodology and work plan</p> <p>The firm must provide an understanding of the assignment, the county and various aspects of county transport and infrastructure (10 marks)</p> <p>The firm must provide a detailed approach and methodology to the assignment including use of appropriate modern technologies and where applicable the use of counterpart staff from the county (25 marks)</p> <p>The firm must propose a suitable work plan for undertaking the assignment within the stipulated timelines and a clear scheduling for each of the deliverables. (10 marks)</p> <p>Maximum 45 marks</p>	45 Marks
<p>Qualifications and experience of the key staff: The following key staff must be provided:</p>	40 Marks
<p>1. Civil/Transport Engineer</p>	
<p>Qualifications</p> <p>At least a Bachelor's degree In civil/structural engineering or relevant area</p>	<p>Experience</p> <p>A minimum experience of 3 years in carrying out civil/structural engineering works (10 marks)</p>
<p>2. Legal Expert (1)</p>	
<p>Qualifications</p> <p>At least a Bachelor's degree in Law and must be an advocate of the High Court of Kenya</p>	<p>Experience</p> <p>Minimum of 3 years' relevant experience working or serving clients in the public sector (10 marks)</p>
<p>3. ICT Expert (1)</p>	
<p>Qualifications</p> <p>At least a Bachelor's degree in computer science or Information Technology or Information Systems or any other relevant field</p>	<p>Experience</p> <p>Minimum of 3 years' Experience systems implementation and working on systems relating to transport, infrastructure or road management. (10 marks)</p>
<p>4. Policy Expert (1)</p>	
<p>Qualifications</p> <p>At least a master's degree in a business-related course</p>	<p>Experience</p> <p>Minimum of 3 years' experience in developing modern policies, procedures, process manuals etc. Must also have experience in conducting consultative workshops in the public sector (10 marks)</p>

E.3 Financial Evaluation

The evaluation shall be carried out as per the **Opening and Evaluation of Financial Quotation section** of this RFP

F.5 KEY STAFF EVALUATION

The proposed staff should have experience in undertaking similar assignments. Firms are allowed to associate with other firms for the purposes of meeting the requirements of this consultancy. The proposed key staff should include an Civil Engineer or a Transport Economist, a Legal Expert, a Policy and an ICT Expert. The qualifications and experience of the staff and how they shall be evaluated is outlined in section F of these terms of reference.

The bidder should take note of the County’s terms of replacement of experts or sub-consultants, which shall strictly apply on selection. The Bidder shall provide the same experts (as per the names and academic qualifications) specified in the response other than under the following exceptions:

- i. If the County finds that any of the Experts or Sub-consultant has committed serious misconduct or has been charged with having committed a criminal action, or shall the County determine that Consultant’s Expert or Sub-consultant have engaged in corrupt, fraudulent, collusive, coercive or obstructive practice while performing the Services, the Consultant shall, at the Client’s written request, provide a replacement.
- ii. In the event that any of Key Experts, Non-Key Experts or Sub-consultants is found by the County to be incompetent or incapable of discharging assigned duties, the County, specifying the grounds therefore, may request the Consultant to provide a replacement.
- iii. Any replacement of the removed Experts or Sub-consultants shall possess better qualifications and experience and shall be acceptable to the County.
- iv. Except as the County may otherwise agree, (i) the Consultant shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the Experts provided as a replacement shall not exceed the remuneration which would have been payable to the Experts replaced or removed.

The total minimum score to be achieved to progress to the Financial Evaluation Stage will be at least 80%.

3.4.5. TIME FRAME

The assignment must be completed within 1.5 months (30 working days) as per the schedule below.

#	Deliverables	Timelines
1	Inception report including agreed approach and work plan	Within 3 working days
2	An initial stakeholder consultation workshop	Within 7 working days after 1 above
3	Presentation of the draft technical paper for the transport bill and the draft Wajir county transport bill	Within 10 working days after 2 above
4	Hold a stakeholder validation workshop for the draft technical paper and the county transport bill	Within 5 working days after 3 above
5	Presentation of the final draft technical paper and the county transport bill	Within 5 working days after 4 above

3.4.6. VALIDITY AND APPLICATION OF TERMS

The terms of proposal shall be applicable throughout the engagement period.

3.4.7. COMMENCEMENT OF SERVICE

The successful consultant should be prepared to commence the services immediately upon signing the contract.

3.4.8. Remuneration

The firm's payment shall be based on the financial proposal developed for this assignment.

3.4.9. Client Address

The name(s), address (es) and telephone numbers of the Client's official(s) are:

WAJIR COUNTY GOVERNMENT.

P.O Box 9-70200,

WAJIR

Tel. No: 0720461817

3.4.10. The Client will provide the following inputs: **All data statistics and information required for the assignment**

3.4.11. Taxes: **The Tenderer will pay for all the local taxes, duties, fees, levies and other charges applicable in Kenya. The financial proposal should therefore include any taxes payable in Kenya.**

3.4.12. Consultants must submit an original and **ONE** additional copy of each proposal.

3.4.13. The proposal submission address is:

COUNTY SECRETARY

WAJIR COUNTY GOVERNMENT

P.O Box 9-70200

WAJIR.

Information on the outer envelope should also include:

REQUEST FOR PROPOSAL (RFP) TO DEVELOP TRANSPORT BILL FOR WAJIR COUNTY.

3.4.14. Proposals must be submitted no later than the following date and time: **19th FEBRUARY 2019 AT 10.00 A.M. EAST AFRICAN TIME.**

3.4.15. The address to send information to the Client is:

COUNTY SECRETARY

WAJIR COUNTY GOVERNMENT

P.O Box 9-70200

WAJIR.

3.5. MANDATORY REQUIREMENTS

The Mandatory requirements shall contain the following): -

- i. Certificate of Registration/Incorporation
- ii. KRA PIN Certificate.
- iii. Valid Tax Compliance Certificate
- iv. A copy of CR12.
- v. Valid Business Permit.
- vi. Audited financial statements for the last two financial years
- vii. Duly Completed, Stamped and Signed Confidential Business Questionnaire in the format provided
- viii. Submit an **ORIGINAL AND ONE (1)** additional copy of the separate technical and financial proposal.
- ix. Fill, Sign and Stamp the Technical proposal submission form in the format provided.
- x. Comments and suggestions of consultants on the terms of reference and on data, services and facilities to be provided by the client.
- xi. Serialize and Initialize on all pages for each bid submitted. **Failure shall lead to Automatic disqualification.**
- xii. Provide a signed and stamped self-declaration that they will not engage in any corrupt practice.
- xiii. Fill, Sign and Stamp the Form of Tender in the Format Provided (*During Financial Opening for the successful bidders*).
- xiv. Proposed staff to the assignment and any proposed staff to assist in the assignment in the format provided.
- xv. Consultancy services activities times' schedule.

NOTE: By agreeing to participate in the above tender, you shall have expressly given consent to the client the discretion of verifying the provided details above without necessarily seeking consent from the Vendor.

3.6. ONLY FIRMS THAT ARE RESPONSIVE TO THE MANDATORY REQUIREMENTS SHALL PROCEED FOR THE TECHNICAL EVALUATION.

3.6.1. THE TECHNICAL EVALUATION WILL BE BASED ON A SCORING SYSTEM MARKED OUT OF AN OVERALLWEIGHTED MAXIMUM OF 80 MARKS

3.6.2. ONLY PROPOSALS THAT SCORE A MINIMUM OF 70/80 WEIGHTED MARKS (I.E. 87.5% OF TECHNICAL PROPOSAL MARKS) IN THE TECHNICAL EVALUATIONS WILL BE DEEMED TO BE "SUBSTANTIALLY RESPONSIVE" AND SHALL PROCEED TO THE FINANCIAL EVALUATION.

Marks will be awarded according to the evaluation criteria provided in section 3.4.4 of this tender document

3.6.3. Alternative formulae for determining the financial scores is the following: NONE.

3.6.4. The weights given to the Technical (Part 1 & 2) and Financial Proposals are:

T= 0.80

P= 0.20

3.6.5. Quality and Cost Based Selection shall be the Method Used

3.6.6. A bidder must obtain at least 80 on the technical score to proceed to the next stage of opening of the financial proposal.

3.6.7. The firm achieving the highest combined technical and financial score and whose references (site visits) satisfy The County Government of Wajir will be invited for negotiations.

3.6.8. The assignment is expected to commence **FROM THE DATE OF CONTRACT SIGNING.**

DUE DILIGENCE

3.6.9. The County Government of Wajir shall undertake a due diligence on the Successful bidder after the combination of both technical and financial score to verify the information provided in the Bidding document.

3.6.10. The due diligence shall be in a **PASS/FAIL** Criteria. Where the bidder fails the Due diligence, the Client shall disqualify the bidder and proceed to the second-best evaluated bidder.

SECTION III: - TECHNICAL PROPOSAL

Notes on the preparation of the Technical Proposals

- 4.1. In preparing the technical proposals the consultant is expected to examine all terms and information included in the RFP. Failure to provide all requested information shall be at the consultants' own risk and may result in rejection of the consultant's proposal.
- 4.2. The technical proposal shall provide all required information and any necessary additional information and shall be prepared using the standard forms provided in this Section.
- 4.3. The Technical proposal shall not include any financial information unless it is allowed in the Appendix to information to the consultants or the Special Conditions of contract.

1. TECHNICAL PROPOSAL SUBMISSION FORM

[_____ *Date*]

To: _____ [*Name and address of Client*]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for _____
_____ [*Title of consulting services*] in accordance with your
Request for Proposal dated _____ [*Date*] and our Proposal. We are hereby
submitting our Proposal, which includes this Technical Proposal, [and a Financial Proposal
sealed under a separate envelope-*where applicable*].

We understand you are not bound to accept any Proposal that you receive.

We remain,

Yours sincerely,

_____ [*Authorized Signature*]:

_____ [*Name and Title of Signatory*]:

_____ [*Name of Firm*]:

_____ [Address:]

2. CONSULTANT'S ORGANIZATION AND EXPERIENCE

{Provide here a brief description of the background and organization of your firm/entity}

Using the format below, provide information on each assignment for which your firm, and each associate for this assignment, was legally contracted either individually as a corporate entity or as one of the major companies within an association, for carrying out consulting services similar to the ones requested under this assignment.

Assignment Name:		Country
Location within Country:		Professional Staff provided by Your Firm/Entity : (profiles)
Name of Client:		Clients contact person for the assignment.
Address:		No of Staff-Months; Duration of Assignment:
Start Date (Month/Year):	Completion Date (Month/Year):	Approx. Value of Services (Kshs)
Name of Associated Consultants. If any:		No of Months of Professional Staff provided by Associated Consultants:
Name of Senior Staff (Project Director/Coordinator, Team Leader) Involved and Functions Performed:		
Narrative Description of project:		
Description of Actual Services Provided by Your Staff:		

Firm's Name: _____

Name and title of signatory; _____

1. COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE

On the Terms of Reference: - Present and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities). Such suggestions should be concise and to the point, and incorporated in your Proposal

On Counterpart Staff and Facilities to be provided by the Client: - Comment here on counterpart staff and facilities to be provided by the Client including: administrative support, office space, local transportation, equipment, data, etc.

Description of Approach, Methodology and Work Plan: - Technical approach, methodology and work plan are key components of the Technical Proposal. You are suggested to present your Technical Proposal divided into the following sections

a) Technical Approach and Methodology. In this chapter you should explain your understanding of the objectives of the assignment, approach to the services, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance, and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach.

b) Work Plan. In this chapter you should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Client), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here.

c) Organization and Staffing. In this chapter you should propose the structure and composition of your team. You should list the main disciplines of the assignment, the key expert responsible, and proposed technical and support staff.

4. TEAM COMPOSITION AND TASK ASSIGNMENTS

Technical/Managerial Staff

Name	Position	Task

Support staff.

Name	Position	Task

5. CURRICULUM VITAE FOR PROPOSED PROFESSIONALS

Identification.

(a) Identification

1. Full Names: _____ (End with Family Name)
2. Date of birth: _____
3. Nationality _____
4. Marital status: _____
5. Years of Working experience: from _____ to _____
6. Present Position _____
7. Key Personnel position in the Proposal

(b) Education

	Institutions/dates	Degree(s) or Diploma (s) obtained:

(c) Language Skills.

	Language	Reading	Speaking	Writing

(d) Membership of Professional Bodies.

Provide information Professional Bodies that the staff belongs, including year of enrolment.

(e) Key qualifications/skills and experience (List e.g.)

- i. Extensive experience in procurement of works, goods and services, i.e. preparation of annual procurement plans and budgets, preparation of bidding and proposal documents, preparation and/or review of bid and proposal evaluations, contract negotiations.

- ii. Management of procurement contracts, and technical review and auditing.
- iii. (etc.)

(f) Employment record.

Provide information on employment starting with present position going back for every employment held since graduation, giving for each employment dates of employment, name of employer, positions held and tasks of the employment. Highlight information on employment tasks that best illustrate staff capability to handle the tasks under the assignment.

(g) Professional experience.

If the staff member has worked as a consultant, provide work experience and assignments carried out using the format of the form below.

	Date (from-to)	Location/Country	Company & reference person	Position	Description of Assignment
1					
2					

(h) Certification.

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes me, my qualifications, and my experience. I understand that any wilful misstatement described herein may lead to my disqualification or dismissal, if engaged.

.....**Date:**

[Signature of staff member or authorized representative of the staff] Day/Month/Year

Full name of authorized representative:

7. TIME SCHEDULE FOR PROFESSIONAL PERSONNEL.

Name	Position	Reports Due/ Activities										Number of months	
			1	2	3	4	5	6	7	8	9		

Reports Due:
Activities Duration:

Signature.....
(Authorized representative)

Full Name.....
Title.....
Address.....

8. ACTIVITY (WORK) SCHEDULE

(a). Field Investigation and Study Items

[1st, 2nd, etc., are months from the start of assignment)

	1 st	2 nd	3 rd	4 th	5 th	6 th	7 th	8 th	9 th	10 th	11 th	12 th	
Activity (Work)													

(b). Completion and Submission of Reports

Reports	Date
1. Inception Report	
2. Interim Progress report a) First Status Report b) Second status Report	
3. Draft Report	
4. Final Report	

9. CONFIDENTIAL BUSINESS QUESTIONNAIRE

You are requested to give the particular indicated in part 1 and either part 2 (a), 2(b) or 2 9c) which ever applies to your type of business. You are advised that it is a serious offence to give false information on this form. Part _____ General Business

Name.....

Location of Business

premises..... Plot

No.....Street/ Road.....

Postal Address.....Tel.

No.....Fax.....Email.....

Nature of Business

Registration Certificate No.....

Maximum value of business which you can handle at any one-time

Kshs.....

Name of your Bankers.....Branch.....

Part 2 (a) Sole Proprietor

Your name in full.....Age.....

Nationality.....Country of origin.....

Citizenship Details

Part 2 (b) – Partnership Give details of partners as follows Name Nationality Citizenship details shares

1.....

2.....

3.....

4.....

5.....

Part 2 (c) - Registered Company Private or Public State the nominal and issued capital of the company Nominal Kshs.....

Issued Kshs.....

Give details of all directors as follows Name Nationality Citizenship details shares

1.....

2.....

3.....

4.....

5.....

Date..... Signature of tender.....

If a citizen, indicate under “citizenship Details” whether by birth, Naturalization or Registration.

10. DECLARATION (COMPLIANCE TO SECTION 62 OF THE PPAD ACT 2015)

I (Business Name) of Postal address.....and registration Certificate Number

..... Do declare that I will not engage in any corrupt or fraudulent practice and that the business named above, her sub-contractors/joint-venture are not debarred from participating in procurement proceedings in Kenya.

Name of the Business:

Authorized Personnel Name:

Authorized Personnel Signature:

Official Stamp:

Date:

SECTION IV: FINANCIAL PROPOSAL

Notes on preparation of Financial Proposal.

- a. The Financial proposal prepared by the consultant should list the costs associated with the assignment. These costs normally cover remuneration for staff, subsistence, transportation, services and equipment, printing of documents, surveys etc as may be applicable. The costs should be broken down to be clearly understood by the procuring entity.
- b. The financial proposal shall be in Kenya Shillings or any other currency allowed in the request for proposal and shall take into account the tax liability and cost of insurances specified in the request for proposal.
- c. The financial proposal should be prepared using the Standard forms provided in this part.

1. **FINANCIAL PROPOSAL SUBMISSION FORM**

_____ [Date]

To: _____

[Name and address of Client]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for (_____) [Title of consulting services] in accordance with your Request for Proposal dated (_____) [Date] and our Proposal. Our attached Financial Proposal is for the sum of (_____) [Amount in words and figures] inclusive of the taxes.

We remain,

Yours sincerely,

_____ [Authorized Signature]:

_____ _ [Name and Title of Signatory]:

_____ _ [Name of Firm]

_____ _ [Address]

2. **SUMMARY OF COSTS**

Costs	Currency (ies)	Amount (s)
Subtotal		
Taxes		
Total amount of Financial proposal		

3. BREAKDOWN OF PRICE PER ACTIVITY

Activity No:	Description:
Price Component	Amounts
Remuneration	
Reimbursables	
Miscellaneous Expenses	
Subtotal	

4. BREAKDOWN OF REMUNERATION PER ACTIVITY

Activity No:				
Name:				
Names	Position	Input (Staff months, days or hours as appropriate.)	Remuneration rate	Amount
Regular Staff (i) (ii)				
Consultants				
Grand				Total

5. REIMBURSABLES PER ACTIVITY

Activity No:

Name:

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.	Air Travel	Trip			
2.	Road Travel	Kms			
3.	Rail Travel	Kms			
4.	Subsistence Allowance	Day			
	Grand Total				

6. MISCELLANEOUS EXPENSES

Activity No.

Activity Name:

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.	Communication Costs				
2.	Drafting, reproduction of reports				
3.	Equipment: Computers etc.				
4.	Software				
	Grand Total				

SECTION V: FORM OF CONTRACT

Large Assignments (Lump-Sum Payments)

This Agreement (hereinafter called the "Contract") is made the _____) day of the Month of _____ [month], [year], between _____, [name of client] of [or whose registered office is situated at] _____ [location of office] (hereinafter called the "Client") of the one part AND _____ [name of consultant] of [or whose registered office is situated at] _____ [location of office] (hereinafter called the "Consultant") of the other part.

WHEREAS

- a) The Client has requested the Consultant to provide certain consulting services as defined in the General Conditions of Contract attached to this Contract (hereinafter called the "Services");
- b) The Consultant, having presented to the Client that he has the required professional skills and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the Parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

- a) The General Conditions of Contract;
- b) The Special Conditions of Contract;
- c) The following Appendices: [Note: If any of these Appendices are not used, they should be deleted from the list]

The mutual rights and obligations of the Client and the Consultants shall be as set forth in the Contract; in particular:

(a) The Consultant shall carry out the Services in accordance with the provisions of the Contract; and (b) the Client shall make payments to the Consultant in accordance with the provisions of the Contract.

IN WITNESS WHERE OF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of _____ [name of client]

[full name of Client's authorised representative] _____

[title] _____

[signature] _____

[date] _____

For and on behalf of _____ [name of consultant]
[full name of Consultant's
authorized representative] _____

[title]_____

[signature]_____

[date]_____

II. GENERAL CONDITIONS OF CONTRACT

1. GENERAL PROVISIONS

1.1 Definitions Unless the context otherwise requires, the following terms whenever used in this Contract shall have the following meanings:

- (a) “Applicable Law” means the laws and any other instruments having the force of law in the Republic of Kenya as they may be issued and in force from time to time;
- (b) “Contract” means the Contract signed by the Parties, to which these General Conditions of Contract (GC) are attached together with all the documents listed in Clause 1 of such signed Contract;
- (c) “Contract Price” means the price to be paid for the performance of the Services in accordance with Clause 6 here below;
- (d) “Foreign Currency” means any currency other than the Kenya Shilling;
- (e) “GC” means these General Conditions of Contract;
- (f) “Government” means the Government of the Republic of Kenya;
- (g) “Local Currency” means the Kenya Shilling;
- (h) “Member”, in case the Consultant consists of a joint venture of more than one entity, means any of these entities; “Members” means all these entities, and “Member in Charge” means the entity specified in the SC to act on their behalf in exercising all the Consultant’s rights and obligations towards the Client under this Contract;
- (i) “Party” means the Client or the Consultant, as the case may be and “Parties” means both of them;
- (j) “Personnel” means persons hired by the Consultant or by any Subconsultant as employees and assigned to the performance of the Services or any part thereof;
- (k) “SC” means the Special Conditions of Contract by which the GC may be amended or supplemented;
- (l) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A; and
- (m) “Sub consultant” means any entity to which the Consultant subcontracts any part of the Services in accordance with the provisions of Clauses 3 and 4.

1.2 Law Governing the Contract. This Contract, its meaning and interpretation and the relationship between the Parties shall be governed by the Laws of Kenya.

1.3 Language. This Contract has been executed in English language which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

1.4 Notices. Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed or when sent by registered mail, telex, telegram or facsimile to such Party at the address specified in the SC.

1.5 Location. the Services shall be performed at such locations as are specified in Appendix A and, where the location of a particular task is not so specified, at such locations, whether in the Republic of Kenya or elsewhere, as the Client may approve.

1.6 Authorized Representatives. Any action required or permitted to be taken and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the SC.

1.7 Taxes and Duties. The Consultant, Sub consultant[s] and their personnel shall pay such taxes, duties, fees and other impositions as may be levied under the Laws of Kenya, the amount of which is deemed to have been included in the Contract Price.

2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

2.1 Effectiveness of Contract. This Contract shall come into effect on the date the Contract is signed by both Parties or such other later date as may be stated in the SC.

2.2 Commencement Services. The Consultant shall begin carrying out the of Services thirty (30) days after the date the Contract becomes effective or at such other date as may be specified in the SC.

2.3 Expiration of Contract. Unless terminated earlier pursuant to Clause 2.6, this Contract shall terminate at the end of such time period, after the Effective Date, as is specified in the SC.

2.4 Modification. Modification of the terms and Conditions of this Contract, including any modification of the scope of the Services or the Contract Price, may only be made by written agreement between the Parties

2.5 Force Majeure

2.5.1 Definition For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

2.5.2 No Breach of Contract The failure of a Party to fulfil any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract insofar as such

inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.

2.5.3 Extension of Time. Any period within which a Party shall, pursuant to this Contract complete any action or task shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.5.4 Payments. During the period of his inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by him during such period for the purposes of the Services and in reactivating the Service after the end of such period.

2.6 Termination

2.6.1 By the Client. The Client may terminate this Contract by not less than thirty (30) days' written notice of termination to the Consultant, to be given after the occurrence of any of the events specified in this Clause;

(a) if the Consultant does not remedy a failure in the performance of his obligations under the Contract within thirty (30) days after being notified or within any further period as the Client may have subsequently approved in writing;

(b) if the Consultant becomes insolvent or bankrupt;

(c) if, as a result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or

(d) if the Consultant, in the judgement of the Client, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this clause;

“corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in Contract execution.

“fraudulent practice” means a misrepresentation of facts in order to influence a selection process or the execution of Contract to the detriment of the Client, and includes collusive practice among consultants (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the Client of the benefits of free and open competition.

2.6.2 By the Consultant. The Consultant may terminate this Contract by not less than thirty (30) days' written notice to the Client, such notice to be given after the occurrence of any of the following events;

(a) if the Client fails to pay any monies due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause 7 within sixty (60) days after receiving written notice from the Consultant that such payment is overdue; or

(b) if, as a result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

2.6.3 Payment upon Termination. Upon termination of this Contract pursuant to Clauses 2.6.1 or 2.6.2, the Client shall make the following payments to the Consultant:

(a) remuneration pursuant to Clause 6 for Services satisfactorily performed prior to the effective date of termination;

(b) except in the case of termination pursuant to paragraphs (a) and (b) of Clause 2.6.1, reimbursement of any reasonable costs incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents.

3. OBLIGATIONS OF THE CONSULTANT

3.1 General the Consultant shall perform the Services and carry out his obligations with all due diligence, efficiency and economy in accordance with generally accepted professional techniques and practices and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Client and shall at all times support and safeguard the Client's legitimate interests in any dealing with Sub consultants or third parties.

1.2 Conflict of Interests

3.2.1 Consultant Not to Benefit from commissions, Discount.

- i. The remuneration of the Consultant pursuant to Clause 6 shall constitute the Consultant's sole remuneration in connection with this Contract or the Services and the Consultant shall not accept for his own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of his obligations under the Contract and the Consultant shall use his best efforts to ensure that his personnel, any sub consultant[s] and agents of either of them similarly shall not receive any such additional remuneration.
- ii. For a period of two years after the expiration of this Contract, the Consultant shall not engage and shall cause his personnel as well as his sub consultant[s] and his/their personnel not to engage in the activity of a purchaser (directly or indirectly) of the assets on which he advised the Client on this Contract nor shall he engage in the activity of an adviser (directly or indirectly) of potential purchasers of such assets.
- iii. Where the Consultant as part of the Services has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant will comply with any applicable procurement guidelines and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement shall be for the account of the Client.

3.2.2 Consultant and Affiliates Not to be Otherwise Interested in Project. The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and his affiliates, as well as any Subconsultant and any of his affiliates, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

3.2.3. Prohibition of Conflicting Activities. Neither the Consultant nor his subconsultant[s] nor their personnel shall engage, either directly or indirectly in any of the following activities:

- a) during the term of this Contract, any business or professional activities in the Republic of Kenya which would conflict with the activities assigned to them under this Contract; or
- b) after the termination of this Contract, such other activities as may be specified in the SC.

3.3 Confidentiality. The Consultant, his subconsultant[s] and the personnel of either of them shall not, either during the term of this Contract or within two (2) years after the expiration of

this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

3.4 Insurance to be Taken out by the Consultant. The Consultant (a) shall take out and maintain and shall cause any subconsultant[s] to take out and maintain, at his (or the subconsultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks and for the coverage, as shall be specified in the SC; and (b) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums have been paid.

3.5 Consultant's Actions Requiring Client's Prior Approval. The Consultant shall obtain the Client's prior approval in writing before taking any of the following actions;

- a) entering into a subcontract for the performance of any part of the Services,
- b) appointing such members of the personnel not listed by name in Appendix C ("Key Personnel and Subconsultants").

3.6 Reporting Obligation. The Consultants shall submit to the Client the reports and documents specified in Appendix A in the form, in the numbers, and within the periods set forth in the said Appendix.

3.7 Documents prepared by the Consultant to Be the property of the client. All plans, drawings, specifications, designs, reports and other documents and software submitted by the Consultant in accordance with Clause 3.6 shall become and remain the property of the Client and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Client together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software. Neither Party shall use these documents for purposes unrelated to this Contract without the prior approval of the other Party.

4. CONSULTANT'S PERSONNEL

4.1 Description of Personnel

The titles, agreed job descriptions, minimum qualifications and estimated periods of engagement in the carrying out of the Services of the Consultant's Key Personnel are described in Appendix C. The Key Personnel and Sub consultants listed by title as well as by name in Appendix C are hereby approved by the Client.

4.2 Removal and/or Replacement of Personnel

(a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If for any reason beyond the reasonable control of the Consultant, it becomes necessary to replace any of the Key Personnel, the Consultant shall provide as a replacement a person of equivalent or better qualifications.

(b) If the Client finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) the Client has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the

Consultant shall, at the Client's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Client.
(c)The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

5. OBLIGATIONS OF THE CLIENT

5.1. Assistance and Exemptions. The Client shall use his best efforts to ensure that he provides the Consultant such assistance and exemptions as may be necessary for due performance of this Contract.

5.2. Change in the Applicable Law. If after the date of this Contract, there is any change in the Laws of Kenya with respect to taxes and duties which increases or decreases the cost of the Services rendered by the Consultant, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties and corresponding adjustments shall be made to the amounts referred to in Clause 6.2 (a) or (b), as the case may be.

5.3 Services and Facilities. The Client shall make available to the Consultant the Services and Facilities listed under Appendix F.

6. PAYMENTS TO THE CONSULTANT

6.1 Lump-Sum Remuneration. The Consultant's total remuneration shall not exceed the Contract Price and shall be a fixed lump-sum including all staff costs, Subconsultants' costs, printing, communications, travel, accommodation and the like and all other costs incurred by the Consultant in carrying out the Services described in Appendix A. Except as provided in Clause 5.2, the Contract Price may only be increased above the amounts stated in Clause 6.2 if the Parties have agreed to additional payments in accordance with Clause 2.4.

6.2 Contract Price. (a) The price payable in foreign currency is set forth in the SC.
(b) The price payable in local currency is set forth in the SC.

6.3 Payment for Additional Services. For the purposes of determining the remuneration due for additional services as may be agreed under Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E.

6.4 Terms and Conditions of Payment. Payments will be made to the account of the Consultant and according to the payment schedule stated in the SC. Unless otherwise stated in the SC, the first payment shall be made against the provision by the Consultant of a bank guarantee for the same amount and shall be valid for the period stated in the SC. Any other payment shall be made after the conditions listed in the SC for such payment have been met and the Consultant has submitted an invoice to the Client specifying the amount due.

6.5 Interest on Payment shall be made within thirty (30) days of Delayed receipt of invoice and the relevant documents Payment specified in Clause 6.4. If the Client has delayed payments beyond thirty (30) days after the due date hereof, simple interest shall be paid to the Consultant for each day of delay at a rate three percentage points above the prevailing Central Bank of Kenya's average rate for base lending.

7. SETTLEMENT OF DISPUTES.

7.1. Amicable Settlement the Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

7.2. Dispute Settlement Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party’s request for such amicable settlement may be referred by either Party to the arbitration and final decision of a person to be agreed between the Parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed by the Chairman of the Chartered Institute of Arbitrators, Kenya Branch, on the request of the applying party.

III. SPECIAL CONDITIONS OF CONTRACT

Number of GC Clause	Amendments of and Supplements to Clauses in the General	Conditions of Contract
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1.1(i) The Member in Charge is _____ [name of Member]

1.4 The addresses are:

- Client: _____
- Attention: _____
- Telephone: _____
- Telex; _____
- Facsimile: _____
- Consultant: _____
- Attention: _____

1.6 The Authorized Representatives are:

- For the Client: _____
- For the Consultant: _____

2.1 The date on which this Contract shall come into effect is (_____)
[date].

Note:

The date may be specified by reference to conditions of effectiveness of the Contract, such as receipt by Consultants of advance payment and by Client of bank guarantee

2.2 The date for the commencement of Services is _____ [date]

2.3 The period shall be _____ [length of time].

Note: Fill in the period, e.g., twenty-four (24) months or such other period as the Parties may agree in writing.

3.4 The risks and coverage shall be:

(i) Professional Liability _____

(ii) Loss of or damage to equipment and property _____

6.2(a) The amount in foreign currency or currencies is _____ [Insert amount].

6.2(b) The amount in local Currency is _____
[Insert amount]

6.4 Payments shall be made according to the following schedule:

Note: (a) This sample Clause should be specifically drafted for each Contract and the following instalments are indicative only; (b) if the payment of foreign currency and of local currency does not follow the same schedule, add a separate schedule for payment in local currency; and (c) if applicable, detail further the nature of the report evidencing performance, as may be required, e.g., submission of study or specific phase of study, survey, drawings, draft bidding documents, etc., as listed in Appendix B, Reporting Requirements. In the example provided, the bank guarantee for the repayment is released when the payments have reached 50 percent of the lump - sum price, because it is assumed that at that point, the advance has been entirely set off against the performance of services.

- Twenty (20) percent of the Contract Price shall be paid on the commencement date against the submission of a bank guarantee for the same.
- Ten (10) percent of the lump-sum amount shall be paid upon submission of the inception report.
- Twenty-five (25) percent of the lump-sum amount shall be paid upon submission of the interim report.
- Twenty-five (25) percent of the lump-sum amount shall be paid upon submission of the draft final report.
- Twenty (20) percent of the lump-sum amount shall be paid upon approval of the final report.
- The bank guarantee shall be released when the total payments reach fifty (50) percent of the lump-sum amount.